

The CASE of Sir Charles Englefield, Baronet.

N. Tab 2025/11 (1)

SIR Francis Englefield of Wotton Bassett in the County of Wilts Baronet, had Issue Sir Francis Englefield his Son and Heir, Sir Thomas Englefield, Anthony Englefield, William Englefield, and Henry Englefield.

Sir Francis Englefield the Son, had Issue Sir Francis Englefield and several Daughters.

Sir Thomas Englefield, Second Son of Sir Francis Englefield the Grandfather, had Issue Sir Charles Englefield, his Son and Heir, the now Defendant.

Anthony Englefield Third Son of Sir Francis Englefield the Grandfather, had Issue Anthony Englefield, his Son and Heir, the now Plaintiff, or Appellant.

19 Junii,
8 Car. 1.

After the death of Sir Francis Englefield the Grandfather, Sir Francis Englefield the Son, and Dame Winifred his Wife, by Indenture 19 Junii 8 Car. 1. and a Fine Levied, to Settle the Manors of Soleby, Saxelby, Gremstone and Ashby, in the County of Leicester (being the Manors in question) to the Use of themselves for their Lives; Remainder to their First, Second, Third, &c. Sons in Tail: Remainders to the Heirs Male of the Body of the said Francis Englefield the Son: Remainder to the said Sir Thomas Englefield for Life, and to his First, Second, Third, &c. Sons in Tail: Remainder to the said Anthony, William and Henry, and to all other the Sons of Sir Francis Englefield the Grandfather, and their Sons successively in like manner, as the same were limited to Sir Thomas Englefield and his Sons: Remainder to the Right Heirs of the said Sir Francis the Grandfather for ever.

Sir Francis Englefield the Grandchild, being seized in Fee of an Estate in Wiltshire, by his Will appoints 600 l. per Annum thereof to be sold for payment of his Debts, and Devises the residue thereof to the Lady Honora his Wife for her Life: Remainder to the Heirs of his Body: Remainder to his said Uncle Sir Thomas Englefield and the Heirs of his Body: Remainder to the said Anthony, William and Henry successively in Tail: Remainder to his own Right Heirs for ever: And in 1665. dies without Issue; and the Lady Honora his Widow and Relict Intermarries with Sir Robert Howard.

So that upon the death of the said Sir Francis Englefield the Grandchild, Sir Thomas Englefield had in him the Remainder of the Leicestershire Estate after the death of Dame Winifred, and the Remainder in Tail of the Wiltshire Estate after the Death of the Lady Honora.

Sir Thomas Englefield being unmarried, and then a Prisoner in the Kings Bench for Debt, and in many Troubles, and being a Person but of a mean Understanding, his younger Brother Anthony Englefield, together with Anthony Englefield the now Plaintiff, Son of the said Anthony, and one Thomas Smith, Combine to get his Estate, and to Defraud him thereof; To prepare the way whereunto, they tell him he was but Tenant for his Life of both the Estates, and could not without his Brother Anthony sell or take up a Farthing on either; That the Two Widows were healthy and young, and likely to out-live him; and that there were several great Portions Charged upon the Estate for his Brother Sir Francis Englefield's Daughters; and that he being not likely to Marry, he could not do better than to settle the Estate upon his Brother to preserve the Family.

Wiltshire E-
state, 18 Sep.
1665.

By these and other indirect Means, they first get Sir Thomas Englefield by Indenture, Dated the 18. of September 1665. in Consideration of 600. l. therein mentioned, to be paid him by the said Two Anthonies, his Brother and Nephew, and of a Rent Charge of 200 l. per Annum to be Granted by them, or one of them to have continuance so long as he the said Sir Thomas remained unmarried, to Convey the said Wiltshire Estate (being of the clear yearly Value of 2500 l. and upwards) unto the said Two Anthonies and their Heirs for ever.

By Articles of the same Date, it was acknowledged by the Two Anthonies, that only 200 l. of the said 600 l. was really paid to Sir Thomas Englefield, and the Two Anthonies Covenanted to pay Sir Thomas the 400 l. Residue, and to settle on him the said Rent Charge of 200 l. per Annum, with a Proviso therein. That if the Two Anthonies should at any time before the First of September then next ensuing, refuse to pay the said 400 l. or to settle the said 200 l. per Annum Rent Charge, and Sir Thomas should Re-pay the said 200 l. he had received, then the said Indenture should be of no Effect, and they to Re-Convey the Estate to Sir Thomas.

4 October,
1665.

And for a Reward to the said Thomas Smith, for his dextrous Management of the Business with Sir Thomas Englefield, the Two Anthonies by Articles 4. October. 1665, Covenanted with Smith, That he should have a Fourth Part of the Wiltshire Estate to him and his Heirs, he paying the Fourth Part of the said 600 l. (50 l. whereof Smith paid down upon Sealing) and settling the Fourth Part of the said 200 l. per Annum Rent Charge, and bearing the Fourth Part of the Charges: And,

By a separate Article of the same Date, it was further Agreed between them, that if the Two Anthonies should not find themselves able to proceed in their Bargain with Sir Thomas Englefield; That then Smith paying the said 400 l. and settling the said 200 l. per Annum Rent Charge, and bearing all Charges at Law, and paying the Two Anthonies 500 l. more, should have one Moiety of the Wiltshire Estate to him and his Heirs.

20 October,
1665.

Sir Robert Howard having married the Lady Honora, who was Tenant for Life of the Wiltshire Estate, and being desirous to Purchase the Reversion, offers Sir Thomas Englefield for it an Annuity of 1000 l. per Annum during his Life, or 8000 l. in ready Money, which he pleased: But Sir Thomas having Conveyed it to the Two Anthonies, could do nothing without them, and was fain to accept of the hard Terms following, viz. By Articles Tripartite, Date 20. October 1665. It was agreed, 1. That Sir Thomas Englefield and the Two Anthonies should Convey the Reversion of the Wiltshire Estate to Sir Robert Howard and his Heirs. 2. That Sir Robert Howard should pay Sir Thomas Englefield 1000 l. in Money, and an Annuity of 400 l. per Annum for his Life, while he had no Issue of his Body; but if he should have any, then the 400 l. per Annum to be paid to the Two Anthonies. 3. That Sir Robert should pay to the Two Anthonies 2500 l. for their shares. 4. And should save the Two Anthonies harmless against Smith, and pay him the 50 l. they had of him. 5. By the same Articles Sir Thomas Englefield, in Consideration of a Rent Charge of 400 l. per Annum, to be settled on him by the Two Anthonies, to Commence after the Death of Dame Winifred Englefield, and to continue while he had no Issue of his Body, Covenanted to Convey the said Manors in Leicestershire (being the Manors now in question) to the Two Anthonies and their Heirs for ever: And the Wiltshire Estate was afterwards Conveyed to Sir Robert Howard accordingly, whereby Smith was defeated of the Reward he expected.

By this purchase, the Two Anthonies had not only the said 2500 l. but a Present of 1000 l. more, and an Annuity of 400 l. per Annum during Sir Thomas his Life, in case he had any Issue of his Body, and all this clearly without laying out one Penny for it, as afterwards appears by the Confession of Anthony the Father upon his Oath, in Answer to a Bill Exhibited against him and his Son in Chancery by Smith, viz. That the 200 l. acknowledged by Sir Thomas Englefield in the said Articles, Dated 18. Sept. 1665. to be paid him by the Two Anthonies, or any Part thereof was never paid him.

As to the said Manors in Leicestershire (which is the Estate in question) Sir Thomas Englefield, in pursuance of the said Tripartite Articles by his Lease dated 20 October 1665. and Release dated 21 October 1665. Conveys the said Leicestershire Estate to the Two Anthonies, and their Heirs for ever, and Covenants to levy a Fine thereof to the same uses; which Fine was afterwards levied accordingly. And afterwards the Two Anthonies granted to Sir Thomas Englefield an Annuity or Rent-Charge of 500 l. per Annum, to be issuing out of the Leicestershire Estate for his Life, from the Decease of Dame Winifred Englefield, and not before, and to continue only while Sir Thomas had no Issue of his Body.

Dame Winifred Englefield, Tenant for Life of the Leicestershire Estate, before the birth of Sir Charles Englefield, joins with the Two Anthony Englefields in a Fine and Recovery, to bar the Intail, and dock the Remainders, to the end to defeat the Remainders in Contingency, limited to the Sons of the said Sir Thomas Englefield, there being no Trustees in the said Indenture of 19 Junii 8 Car. 1. to preserve contingent Remainders.

Sir Thomas Englefield Intermarries with Dame Mary his now Widow and Relict, and hath Issue by her Sir Charles Englefield, the now Defendant, and dies.

Bill.

Sir Charles Englefield in 1681. Exhibits his Bill in Chancery against Anthony Englefield the Son (Anthony the Father being then dead) for the Leicestershire Estate, praying to be Relieved against the palpable Fraud and Circumvention of the Two Anthonies, in getting the said Estate from his Father, and that he might be restored to it, and enjoy it according to the said Settlement of 19 Junii, 8 Car. 1. made by Sir Francis Englefield his Uncle.

Answer.

Anthony Englefield in his Answer (among other things) insists, that one of the Considerations for Sir Thomas Englefield's Conveying the Leicestershire Estate to him and his Father, and their Heirs, was, That notwithstanding Sir Thomas had absolutely conveyed the Wiltshire Estate to them, yet they suffered him to join with them in the Sale thereof, to Sir Robert Howard, who gave him more for the same, then they were to have done.

Decree.

But upon hearing of the Cause, and reading the aforesaid Deeds, Articles and Conveyances, and several others, and a long Debate (all which took up several days) the Court Declared, that it fully appeared, That the Two Anthonies had gotten the said Leicestershire Estate from Sir Thomas Englefield by Fraud Practice, and Circumvention: And therefore Decreed 6 Aprilis Anno 3 Jac. 2. That all Conveyances by him Executed to the said Two Anthonies ought to be set aside; And that Possession of the said Leicestershire Estate, and all Deeds and Writings concerning the same, should be delivered up to Sir Charles Englefield: And that Anthony should Convey the said Estate to Sir Charles, and the Heirs Males of his Body, with such Remainders over as are limited in the said Indenture of 19 Junii 8 Car. 1. free from all Incumbrances. And Sir Charles and the Heirs Males of his Body should quietly enjoy the Premises against Anthony Englefield, and all Claiming under him. And that Anthony Englefield should Account for the Profits.

Note.

The Two Anthonies received the Profits for above Sixteen years, which (at 1500 l. per Annum) amounts to 24000 l. and upwards.

By Virtue of which Decree, the Defendant Sir Charles Englefield hath been in Possession of the Leicestershire Estate for about Five years last past: And in pursuance of an Agreement before his Marriage, and in Consideration of 3000 l. Portion with Dame Susanna his Wife, hath made a Settlement of the Third Part of the said Estate upon the said Dame Susanna for her Joynture, with Remainders to the Issue of their Bodies in Tail, and several Remainders over, and hath levied Fines, and suffered Recoveries thereof.

But the said Anthony Englefield hath utterly refused to yield Obedience to any part of the said Decree, except the Possession, and hath retired into France. And his Agents here have put in an Appeal in his Name to the Right Honourable the House of Peers, from the said Decree.

Now how little Reason the Plaintiff, Anthony Englefield hath to insist upon his and his Fathers letting in Sir Thomas Englefield to receive some of the Purchase-Money of the Wiltshire Estate, as a Consideration for his Conveying to them the Leicestershire Estate, is manifest; the Plaintiff endeavouring to justify one Fraud by another: For

1. They got from him a Conveyance of the Wiltshire Estate (being 2500 l. per Annum) for an inconsiderable matter, viz. 600 l. in ready Money, and an Annuity of 200 l. for his Life.

2. Not one penny of this 600 l. was ever paid him, and yet they prevailed with him to acknowledge he had received 200 l. of it.

3. The 200 l. per Annum for his Life was under a Condition or Limitation to continue no longer then Sir Thomas remained unmarried; which was of a wicked prospect, to restrain him from Marriage, that he might have no Son to call them to an After-reckoning.

4. They Confess afterwards, That though they had gotten Sir Thomas to Convey his Wiltshire Estate to them for 600 l. and 200 l. per Annum Annuity, yet they were not able to Pay the one, or Settle the other.

5. Their sharing the Spoil with Smith, and the indirect Transactions they had with each other, plainly shews the Confederacy between them all to cheat Sir Thomas Englefield.

So that what the Plaintiff insists on in his Answer for a Consideration why they should defeat Sir Thomas Englefield, and his Issue, of the Leicestershire Estate, amounts to no more then this, That because they had Defrauded him only of the best part of the Purchase-Money for the Wiltshire Estate, and not of all of it, he should give them 1500 l. per Annum more in Leicestershire for their dealing with him no worse.

And as to the other Consideration of Sir Thomas Englefield's Conveyance to the Two Anthonies of the Leicestershire Estate, viz. The Settling an Annuity on him of 500 l. per Annum during his Life, after the Death of Dame Winifred Englefield, It was a clear Fraud put upon him, and no Consideration for him to give them the Estate; for Sir Thomas (besides the same wicked prospect to restrain Sir Thomas from Marriage, as in the Case of the Wiltshire Estate) was to have nothing till the Death of Dame Winifred, and after her Death this 500 l. per Annum was to be paid out of his Estate of 1500 l. and the Two Anthonies were to have the residue during his Life, and the whole after his Death for nothing.

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